

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

YANIESHA HENDKING,)	Case No. 1:22-cv-01777-JPC
)	
Plaintiff,)	Judge J. Philip Calabrese
)	
v.)	Magistrate Judge Jonathan D. Greenberg
)	
CARVANA, LLC, <i>et al.</i> ,)	
)	
Defendants.)	
)	
)	
)	

DEFENDANTS’ MOTION FOR LEAVE

Defendants Carvana, LLC (“Carvana”), Kaylie Martinez (“Ms. Martinez”), and Bridgecrest Credit Company, LLC (“Bridgecrest” and, together with Carvana and Ms. Martinez, “Defendants”) move this Court for leave to file an answer or other responsive pleading, if necessary, within fourteen days after the Court rules on Defendants’ motion to compel arbitration.

Defendants removed this case from State Court on October 4, 2022. Notice of Removal (ECF No. 1). In the state Court, Plaintiff proceeded *pro se* on the basis of document styled as an “*Amended Petition for Special Emergency Injunction for Equitable Relief Permanently [sic] From Trespassing and Abusive Harassment/Breach of Trust/Contract*” (the “Amended Petition”). See Notice of Removal at Ex. 1 (ECF No. 1-1). No Counsel has appeared on behalf of Plaintiff since Defendants removed the case to the Federal Court. See *generally* Docket.

Defendants have now filed and served a Motion to Compel Arbitration (“Motion to Compel”) pursuant to the Arbitration Agreement in the parties’ contracts. See Motion to Compel (ECF No. 5). Defendants’ Motion to Compel is brought under the Federal Arbitration Act (“FAA”), 9 U.S.C. § 1 *et seq.* Although the Court’s Standing Order on Civil Procedures § 3 “requires the filing of an answer to the complaint regardless of whether the defendant has filed or

plans to file a motion under Rule 12,” Defendants seek to clarify and confirm that they are not required to answer Plaintiff’s Amended Petition in light of the pending Motion to Compel, as is frequently done in similar circumstances. *See, e.g., Green Tree Fin. Corp.-Ala. v. Randolph*, 531 U.S. 79, 83 (2000) (“In lieu of an answer, petitioners filed a motion to compel arbitration”); *see also Praxis Capital & Inv. Mgmt. Ltd. v. Gemini Holdings I, LLC*, No. 2:15-CV-2912, 2016 U.S. Dist. LEXIS 64090, at *9 (S.D. Ohio May 16, 2016) (granting defendant’s request to file an answer or other responsive pleading within fourteen days of court’s ruling on motion to compel arbitration).

Accordingly, the Defendants respectfully request that the Court enter an order granting Defendants leave to file an answer or other responsive pleading, if necessary, within fourteen days after the Court rules on Defendants’ motion to compel arbitration. In the alternative and to the extent the Court determines that Defendants must submit an answer pending a decision on the Motion to Compel, Defendants request that they be provided three weeks after the Court enters an order on this Motion for Leave to file an answer or other responsive pleading to Plaintiff’s Amended Petition.

Date: October 11, 2022

/s/ Stephen M. Fazio

Stephen M. Fazio (0076873)
Rebecca W. Haverstick (0066996)
SQUIRE PATTON BOGGS (US) LLP
1000 Key Tower
127 Public Square
Cleveland, Ohio 44114
Telephone: +1 216 479 8500
Facsimile: +1 216 479 8780
stephen.fazio@squirepb.com
rebecca.haverstick@squirepb.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed on October 11, 2022 using the Court's CM/ECF System and served via U.S. Mail on:

Yaniesha Hendking
5247 Wilson Mills Rd. #1013
Richmond Heights, OH 44143

Plaintiff (pro se)

/s/ Stephen M. Fazio
Stephen M. Fazio